

IFW

Appln No.: 10/692,460

Confirmation No. 7241

Filed: October 22, 2003

CERTIFICATE OF MAILING

Applicants: Gregory Berrevoets et al.

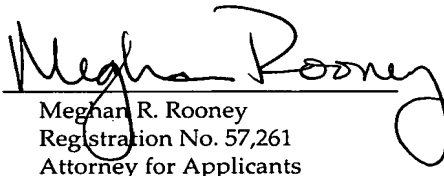
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this date.

Title: **CROSSLINK FOR SECURING
SPINAL ROD**

Art Unit: 3731

Examiner: Jessica R. Baxter

4/6/06
Date


Meghan R. Rooney
Registration No. 57,261
Attorney for Applicants

Attorney Docket: 78485 (79722)

Customer No.: 22242

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION**

Sir:

Applicants hereby petition the Commissioner pursuant to MPEP § 711.03 to withdraw the holding of abandonment for the above-identified patent application (hereinafter "the application"). A written Notice of Abandonment was mailed on March 21, 2006, stating that the application is abandoned in view of Applicants' failure to timely file a proper response to the Restriction Requirement mailed on September 7, 2005.

Applicants submit that a fully responsive and timely reply to the Restriction Requirement was filed in the instant application on October 7, 2005, as shown by the attached copies of the previously mailed responsive materials. On October 7, 2005, a Response to Restriction Requirement Transmittal, Response to Restriction Requirement (2 pages), and a return postcard were mailed to the United States

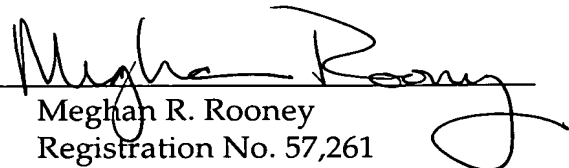
Application No.: 10/692,460
Petition to Accept Timely Filed Materials And
Withdraw Holding of Abandonment

Patent and Trademark Office. The Response and Transmittal each included a properly executed Certificate of Mailing dated October 7, 2005, entitling these items to a filing date as of the mailing date per the Certificate of Mailing provisions of 37 C.F.R. § 1.8(a). The return postcard was stamped by the United States Patent and Trademark Office on October 12, 2005, indicating receipt of the materials. Consequently, Applicants' Response to the Restriction Requirement, which was mailed on October 7, 2005, was timely filed and received by the United States Patent and Trademark Office.

Although the application serial number on the Response was listed as 10/692,420, and thus contained one incorrect digit, the Response otherwise identified the application correctly in all respects. More particularly, the Response correctly identified the title of the application, the filing date of the application, the confirmation number, and the group art unit of the application, as well as the correct examiner for the application. Applicants assert that the Response and accompanying documents contained sufficient identifying information to be associated with the correct application.

Applicants respectfully request favorable consideration of this Petition. Applicants petition the Commissioner to withdraw the holding of abandonment based on the showing made herein, and thereby allow the examination to proceed forthwith.

Respectfully submitted,

By 
Meghan R. Rooney
Registration No. 57,261

Date: April 6, 2006
FITCH, EVEN, TABIN & FLANNERY
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Inventors: Berrevoets, et al.
Crosslink for Securing Spinal Rod

File No. 78485 (79722)/7115
Attys: JHB:tt
October 7, 2005



U.S.S.N. 10/692,420

1. Transmittal response to restriction requirement; 2. Response to Restriction Requirement (2 pages).

Hon. Commissioner of Patents and Trademarks
Sir:

Please acknowledge receipt of the above-identified documents by applying the Patent and Trademark Office receipt stamp hereto and mailing this card.

Respectfully,

FITCH, EVEN, TABIN & FLANNERY



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln No.: 10/692,420
Filed: October 22, 2003
Applicant(s): Berrevoets, et al.
Title: Crosslink for Securing Spinal Rod
Art Unit: 3731
Examiner: Baxter, Jessica R.

Attorney Docket: 78485

Customer No.: 22242

Confirmation No.

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I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this date.

10/07/2005

Date

Brian S. Clise

Registration No. 47,497

Attorney for Applicant(s)

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith is a reply in the above-identified application.

☒ Response to Restriction Requirement.

☒ No additional fee is required.

Fee Calculation For Claims As Amended

	As Amended	Previously Paid For	Present Extra	Rate	Additional Fee
Independent Claims	-	** =	0	x \$ 200.00	= \$ 0.00
Total Claims	-	* =	0	x \$ 50.00	= \$ 0.00
Fee for Multiply Dependent Claims				\$ 360.00	
** At least 3			Total Additional Fee		\$ 0.00
* At least 20					

☐ Applicant(s) assert entitlement to Small Entity Status (37 C.F.R. § 1.27), thus reducing the fee by half to: \$ 0.00

☐ A check in the amount of \$_____ is enclosed.

Application No. 10/692,420

☐ Charge \$_____ to Deposit Account No. 06-1135.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1135. A duplicate copy of this sheet is enclosed.

October 7, 2005

Date



Brian S. Clise

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THE UNITED STATES PATENT AND TRADEMARK OFFICE


In re: Application No. 10/692,420)
Filed: October 22, 2003)
Applicant: Berrevoets, et al.)
Title: Crosslink for Securing)
Spinal Rod)
Art Unit: 3731)
Examiner: Jessica R. Baxter)
Attorney Docket: 78485)
Customer No.: 22242)

Confirmation No. 7241

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10/07/2005
Date


Brian S. Chase
Registration No. 47,497
Attorney for Applicant(s)

Mail Stop AMENDMENT
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

DOCKETED

OCT 17 2005

BY: 

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

This document is being filed in response to the Office Action mailed September 7, 2005 (hereinafter the "Office Action") and is divided into the following sections:

The Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 8 of this paper.

LISTING OF CLAIMS

This listing of claims will replace all prior versions, and listing, of claims in the application:

Listing of Claims:

1. (Original) A connecting member for securing spinal rods mounted to spinal vertebrae, the connecting member comprising:
 - a central span; and
 - a pair of connecting ends, each end including:
 - a contact for seating the connecting member on a spinal rod;
 - a locking member for locking the spinal rod against the contact such that the locking member and contact form a spinal rod seat with locked and unlocked positions; and
 - a cam member connected to the locking member and rotatable against a cam surface of the connecting end for moving the locking member between the unlocked and locked positions and to secure the locking member against the spinal rod.
2. (Original) The connecting member of claim 1 wherein the contact for seating the connecting end on the spinal rod is an arcuate surface.
3. (Original) The connecting member of claim 1 wherein the locking member has an arcuate face such that the arcuate face is secured against the spinal rod when in the locked position.

4. (Original) The connecting member of claim 1 wherein the connecting end further includes a spring retention member for biasing the locking member in the unlocked position.

5. (Original) The connecting member of claim 4 wherein the spring retention member is compressed when the locking member is moved to a locked position.

6. (Original) The connecting member of claim 5 wherein the spring retention member is a split ring located around the cam member, and the ring is compressed when the locking member is moved to a locked position.

7. (Original) The connecting member of claim 1 wherein the camming member is located in a bore in the connecting end, and the bore includes a pair of arcuate camming surfaces for camming against the cam member.

8. (Original) The connecting member of claim 1 wherein the cam member has a recess, and the locking member is secured in the recess of the cam member such that the cam member and locking member may rotate relative to each other.

9. (Original) The connecting member of claim 8 wherein the recess is an annular channel.

10. (Original) A connecting member for securing spinal rods mounted to spinal vertebrae, the connecting member comprising:

a pair of connecting ends each having an arcuate surface and a locking member for seating the connecting member on a pair of spinal rods; and

a central span including:

a cross rod having a central longitudinal axis and being connected to one connecting end;

a rod receiving member having a central longitudinal axis and being connected to the other connecting end, the rod receiving member including an internal cavity for receiving the cross rod;

a clamp device for clamping against the cross rod received in the rod receiving member; and

a sleeve for clamping the clamp device against the cross rod upon rotation of the sleeve around the central longitudinal axis of the rod receiving member.

11. (Original) The connecting member of claim 10 wherein the internal cavity of the rod receiving member receives the cross rod such that the cross rod may be adjustably inserted in the cavity for varying the length of the connecting member, the cross rod may be adjustably rotated in the rod receiving member around a longitudinal axis of the cross rod, and the cross rod may be pivoted relative to the rod receiving member. |

12. (Original) The connecting member of claim 11 wherein the clamp device may pivot to permit pivoting of the cross rod.

13. (Original) The connecting member of claim 12 wherein the clamp device includes an inner surface for mating with the external surface of the cross rod.

14. (Original) The connecting member of claim 13 wherein with at least a portion of the inner surface of the clamp device is arcuate for mating with the external surface of the cross rod, and the cross rod may be rotatably adjusted relative to the clamp device.

15. (Original) The connecting member of claim 10 wherein the cross rod includes a protrusion for retaining the crossrod within the rod receiving member.

16. (Original) The connecting member of claim 10 wherein the sleeve includes an internal structure that imparts a compression force on the clamp device for securing the cross rod.

17. (Original) The connecting member of claim 16 wherein the rod receiving member includes a terminal surface for limiting the position of the clamp device.

18. (Original) The connecting member of claim 17 wherein the clamp device is compressed between the terminal surface of the rod receiving member and the internal structure of the sleeve to secure the cross rod.

19. (Original) The connecting member of claim 17 wherein the internal structure of the sleeve contacts the clamp device directly.

20. (Original) The connecting member of claim 17 wherein the internal structure of the sleeve that contacts the clamp device includes a shoulder portion.

21. (Withdrawn) The connecting member of claim 17 wherein the rod receiving member includes a pair of flanges extending about at least a portion of the clamp device, and the internal structure of the sleeve contacts and compresses the flanges to compress the clamp device for securing the cross rod.

22. (Withdrawn) The connecting member of claim 21 wherein at least one flange and the clamp device are joined by a post and receptacle, the receptacle receiving and holding the post, and the post and receptacle providing a pivot axis for the clamp device so the clamp device and cross rod may pivot within the rod receiving member.

23. (Withdrawn) The connecting member of claim 22 wherein each flange includes a terminal surface mating with the internal surface of the sleeve to compress the clamp device.

24. (Original) A connecting member for securing spinal rods mounted to spinal vertebrae, the connecting member comprising:

- a pair of connecting ends each having an arcuate surface and a locking member for seating the connecting member on a pair of spinal rods; and

- a central span including:

- a cross rod being connected to one connecting end;

a rod receiving member being connected to the other connecting end,
the rod receiving member including an internal cavity for receiving the cross rod;

a clamp device for clamping against the cross rod when received in
the rod receiving member;

a sleeve for clamping the clamp device against the cross rod; and

side openings, wherein the cross rod has lateral surfaces which may
be pivoted relative to the rod receiving member towards and away from the side
openings.

25. (Original) The connecting member of claim 24 wherein the cross rod
has a central longitudinal axis, and the rod receiving member has a central
longitudinal axis.

26. (Original) The connecting member of claim 24 wherein the cross rod
may be pivoted to a position such that the cross rod is protruding from one of the
side openings.

27. (Original) The connecting member of claim 25 wherein the lateral
surfaces of the cross rod are beveled towards the central longitudinal axis of the
cross rod at an end of the cross rod.

REMARKS

Claims 1-27 are pending in the above-captioned application. In the Office Action, a restriction/election requirement has been made under 35 U.S.C. § 121, requiring Applicants to restrict the application to (or elect) one of the following species of the claimed invention:

SPECIES	FIGURES/DESCRIPTION
Species a	Figs. 1-8 and clamp of Fig. 9
Species b	Figs. 1-8 and clamp of Fig. 10
Species c	Figs. 11 and 12 and clamp of Fig. 13
Species d	Figs. 11 and 12 and clamp of Fig. 14
Species e	Figs. 11 and 12 and clamp of Fig. 15

Applicants provisionally elects Species a, to which claims 1-20 and 24-27 are directed. Accordingly, claims 21-23 are hereby withdrawn. This election is made without prejudice and the understanding that Applicant will have the right to pursue divisional applications on the non-elected inventions.

It is believed that claims 1-16 and 24-27 are generic to all listed species.

It should be noted that the specification contemplates that the variable clamp devices may be interchangeable with the different connector devices.

Application No. 10/692,460

RESPONSE TO RESTRICTION REQUIREMENT AND OFFICE ACTION dated September 7, 2005

An action on the merits is awaited.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

A handwritten signature in black ink, appearing to read "B. S. Clise", written over a horizontal line.

Brian S. Clise

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Dated: October 7, 2005

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